

1997, 1998, or 1999. You must provide a detailed current technical description of your facility or its relevant parts including a narrative statement, a detailed diagram of the declared areas in the facility, and an inventory of equipment in the declared area.

(ii) If you plan to change the technical description of your facility from your initial declaration completed and submitted pursuant to paragraph (a)(1) of this section and § 712.6, you must notify BXA 200 calendar days prior to the change. Such notifications must be made through an amended declaration by completing a Certification Form, Form 1-1 and Form A, including the new description of the facility. See § 712.7 for additional instructions on amending Schedule 1 declarations.

(2) *Annual declaration on past activities.* If you are subject to the declaration requirement of paragraph (a)(2) of this section, you must complete the Certification Form and Forms 1-1, 1-2, 1-2A, 1-2B, and Form A if your facility was involved in the production of Schedule 1 chemicals in the previous calendar year, beginning with calendar year 1997. Form B is optional.

(3) *Annual declaration on anticipated activities.* If you anticipate that you will produce at your facility in excess of 100 grams aggregate of Schedule 1 chemicals in the next calendar year you must complete the Certification Form and Forms 1-1, 1-4, and Form A. Form B is optional.

(c) *Quantities to be declared.* If you produced in excess of 100 grams aggregate of Schedule 1 chemicals in the previous calendar year, you must declare the entire quantity of such production, rounded to the nearest gram. You must also declare the quantity of any Schedule 1, Schedule 2 or Schedule 3 precursor chemical used to produce the declared Schedule 1 chemical, rounded to the nearest gram. You must further declare the quantity of each Schedule 1 chemical consumed or stored by, or domestically transferred from, your facility, whether or not the Schedule 1 chemical was produced by your facility, rounded to the nearest gram. In calculating the amount of Schedule 1 chemical you produced, consumed or stored, count only the amount of the Schedule 1 chemical(s)

in a mixture, not the total weight of the mixture (i.e., do not count the weight of the solution, solvent, or container).

NOTE TO § 712.3(c): Schedule 1 reaction intermediates which exist or might exist during the course of synthesis to produce non-scheduled chemicals and which cannot be isolated using available technology should not be declared if the reaction is allowed to go to completion, completely consuming the real or hypothetical intermediates.

(d) *“Declared” Schedule 1 facilities and routine inspections.* Only facilities that produced in excess of 100 grams aggregate of Schedule 1 chemicals in calendar year 1997 or 1998, or during the previous calendar year, or that anticipate producing in excess of 100 grams aggregate of Schedule 1 chemicals during the next calendar year are considered “declared” Schedule 1 facilities for the years declared. A “declared” Schedule 1 facility is subject to initial and routine inspection by the OPCW (see part 716 of this subchapter).

(e) *Approval of declared Schedule 1 production facilities.* Facilities that submit declarations pursuant to this section are considered approved Schedule 1 production facilities for purposes of the CWC, unless otherwise notified by BXA within 30 days of receipt by BXA of an annual declaration on past activities or annual declaration on anticipated activities (see paragraphs (a)(2) and (a)(3) of this section). If your facility does not produce more than 100 grams aggregate of Schedule 1 chemicals, no approval by BXA is required.

#### § 712.4 New Schedule 1 production facility.

(a) *Establishment of a new Schedule 1 production facility.* (1) If your facility was not declared under § 712.3 in a previous calendar year, and you intend to begin production of Schedule 1 chemicals at your facility in quantities greater than 100 grams aggregate per year for research, medical, or pharmaceutical purposes, you must provide an initial declaration (a current detailed technical description of your facility) to BXA at least 200 calendar days in advance of commencing such production. Such facilities are considered “new Schedule 1 production facilities”

and are subject to an initial inspection within 200 calendar days of submitting an initial declaration.

(2) New Schedule 1 production facilities that submit an initial declaration pursuant to paragraph (a)(1) of this section are considered approved Schedule 1 production facilities for purposes of the CWC, unless otherwise notified by BXA within 30 days of receipt by BXA of that initial declaration.

(b) *Types of declaration forms required.* If your new Schedule 1 production facility will produce in excess of 100 grams aggregate of Schedule 1 chemicals, you must complete the Certification Form, Form 1–1 and Form A. You must also provide a detailed technical description of the new facility or its relevant parts, including a detailed diagram of the declared areas in the facility, and an inventory of equipment in the declared areas.

(c) Two hundred days after a new Schedule 1 production facility submits its initial declaration, it is subject to the annual declaration requirements of §712.3(a)(2) and (a)(3).

**§712.5 Advance notification and annual report of all exports<sup>1</sup> and imports of Schedule 1 chemicals to, or from, other States Parties.**

Pursuant to the Convention, the United States is required to notify the OPCW not less than 30 days in advance of every export or import of a Schedule 1 chemical, in any quantity, to or from another State Party. In addition, the United States is required to provide a report of all exports and imports of Schedule 1 chemicals to or from other States Parties during each calendar year. If you plan to export or import any quantity of a Schedule 1 chemical from or to your declared facility, undeclared facility or trading company, you must notify BXA in advance of the export or import and complete an annual report of exports and imports that actually occurred during the previous calendar year. The United States will transmit to the OPCW the advance notifications and a detailed

annual declaration of each actual export or import of a Schedule 1 chemical from/to the United States. Note that the notification and annual report requirements of this section do not relieve you of any requirement to obtain a license from the Department of Commerce for the export of Schedule 1 chemicals subject to the Export Administration Regulations (15 CFR parts 730 through 799) or from the Department of State for the export of Schedule 1 chemicals subject to the International Traffic in Arms Regulations (22 CFR parts 120 through 130). Only facilities that produce in excess of 100 grams aggregate of Schedule 1 chemicals annually are “declared” facilities and are subject to routine inspections pursuant to part 716 of this subchapter.

(a) *Advance notification of exports and imports.* (1) You must notify BXA at least 45 calendar days prior to exporting or importing any quantity of a Schedule 1 chemical listed in Supplement No. 1 to this part to or from another State Party. Note that notifications for exports may be sent to BXA prior to or after submission of a license application to BXA for Schedule 1 chemicals subject to the EAR and controlled under ECCNs 1C350 or 1C351 or to the Department of State for Schedule 1 chemicals controlled under the ITAR. Such notices must be submitted separately from license applications.

(i) Notifications should be on company letterhead or must clearly identify the reporting entity by name of company, complete address, name of contact person and telephone and fax numbers, along with the following information:

- (A) Chemical name;
- (B) Structural formula of the chemical;
- (C) Chemical Abstract Service (CAS) Registry Number;
- (D) Quantity involved in grams;
- (E) Planned date of export or import;
- (F) Purpose (end-use) of export or import (i.e., research, medical, pharmaceutical, or protective purpose);
- (G) Name(s) of exporter and importer;
- (H) Complete street address(es) of exporter and importer;
- (I) U.S. export license or control number, if known; and

<sup>1</sup> Effective May 18, 1999, these advance notification and annual report requirements for exports are set forth in parts 742 and 745 of the Export Administration Regulations (EAR) (15 CFR parts 742 and 745).